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8 **IN THE UNITED STATES DISTRICT COURT**
9 **FOR THE EASTERN DISTRICT OF CALIFORNIA**
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11 UNITED STATES OF AMERICA,

No. CR S-04-0104-JAM-CMK
CIV S-09-2655-JAM-CMK

12 Respondent,

13 vs.

ORDER

14 MARK STEVEN ERCKERT,

15 Movant.
16 _____/

17 Movant, a federal prisoner proceeding pro se, brings this motion to correct or set
18 aside a criminal judgment pursuant to 28 U.S.C. § 2255. Pending before the court is movant's
19 motion for relief from judgment (Doc. 223).

20 The court has examined the motion as required by Rule 4 of the Federal Rules
21 Governing Section 2255 Proceedings.¹ It does not plainly appear from the motion, any attached
22 exhibits, or the record of prior proceedings, that movant is not entitled to relief. See id.
23 Respondent, therefore, will be directed to file a response to movant's motion. See id. If
24 respondent answers the motion, such answer must comply with Rule 5 of the Federal Rules

25 _____
26 ¹ This matter has been referred to the undersigned pursuant to 28 U.S.C. § 636 and Rule 8(b) of the Federal Rules Governing Section 2255 Proceedings.

1 Governing Section 2255 Proceedings. Specifically, an answer shall be accompanied by any and
2 all transcripts or other documents relevant to the determination of the issue(s) presented in the
3 petition. See id.

4 Accordingly, IT IS HEREBY ORDERED that:

5 1. Respondent is directed to file a response to movant's motion within 60
6 days from the date of service of this order;

7 2. Movant's traverse or reply (if respondent files an answer to the motion), if
8 any, or opposition or statement of non-opposition (if respondent files a motion in response) shall
9 be filed and served within 30 days of service of respondent's response; and

10 3. The Clerk of the Court shall serve a copy of this order, together with a
11 copy of movant's motion, on the United States Attorney or his authorized representative.

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13 DATED: November 18, 2009

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15 **CRAIG M. KELLISON**
16 UNITED STATES MAGISTRATE JUDGE
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